

§ 15A-1342. Incidents of probation.

(a) Period. – The court may place a convicted offender on probation for the appropriate period as specified in G.S. 15A-1343.2(d), not to exceed a maximum of five years. The court may place a defendant as to whom prosecution has been deferred or who receives a conditional discharge on probation for a maximum of two years. The probation remains conditional and subject to revocation during the period of probation imposed, unless terminated as provided in subsection (b) or G.S. 15A-1341(c).

Extension. – In addition to G.S. 15A-1344, the court with the consent of the defendant may extend the period of probation beyond the original period (i) for the purpose of allowing the defendant to complete a program of restitution, or (ii) to allow the defendant to continue medical or psychiatric treatment ordered as a condition of the probation. The period of extension shall not exceed three years beyond the original period of probation. The special extension authorized herein may be ordered only in the last six months of the original period of probation. Any probationary judgment form provided to a defendant on supervised probation shall state that probation may be extended pursuant to this subsection.

(a1) Supervision of Defendants on Deferred Prosecution or Conditional Discharge. – The Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may be ordered by the court to supervise an offender's compliance with the terms of a conditional discharge or deferred prosecution agreement. Violations of the terms of the agreement or conditional discharge shall be reported to the court as provided in this Article and to the district attorney in the district in which the agreement was entered.

(b) Early Termination. – The court may terminate a period of probation and discharge the defendant at any time earlier than that provided in subsection (a) if warranted by the conduct of the defendant and the ends of justice.

(c) Conditions; Suspended Sentence. – When the court places a convicted offender on probation, it must determine conditions of probation as provided in G.S. 15A-1343. In addition, it must impose a suspended sentence of imprisonment, determined as provided in Article 83, Imprisonment, which may be activated upon violation of conditions of probation.

(d) Mandatory Review of Probation. – Each probation officer must bring the cases of each probationer assigned to him before a court with jurisdiction to review the probation when the probationer has served three years of a probationary period greater than three years. The probation officer must give reasonable notice to the probationer, and the probationer may appear. The court must review the case file of a probationer so brought before it and determine whether to terminate his probation.

(e) Out-of-State Supervision. – Supervised probationers are subject to out-of-State supervision under the provisions of Article 4B of Chapter 148 of the General Statutes.

(f) Appeal from Judgment of Probation. – A defendant may seek post-trial relief from a judgment which includes probation notwithstanding the authority of the court to modify or revoke the probation.

(g) Invalid Conditions; Timing of Objection. – The regular conditions of probation imposed pursuant to G.S. 15A-1343(b) are in every circumstance valid conditions of probation. A court may not revoke probation for violation of an invalid condition imposed pursuant to G.S. 15A-1343(b1). The failure of a defendant to object to a condition of probation imposed pursuant to G.S. 15A-1343(b1) at the time such a condition is imposed does not constitute a waiver of the right to object at a later time to the condition.

(h) Limitation on Jurisdiction to Alter or Revoke Unsupervised Probation. – In the judgment placing a person on unsupervised probation, the judge may limit jurisdiction to alter or revoke the sentence under G.S. 15A-1344. When jurisdiction to alter or revoke is limited, the effect is as provided in G.S. 15A-1344(b).

(i) Immunity from Prosecution upon Compliance. – Upon the expiration or early termination as provided in subsection (b) of a period of probation imposed after deferral of prosecution and before conviction or a conditional discharge, the defendant shall be immune from prosecution of the charges deferred or discharged and dismissed.

(j) Immunity for Injury to Defendant Performing Community Service. – Immunity from liability for injury to a defendant performing community service shall be as set forth in G.S. 143B-708(d). (1977, c. 711, s. 1; 1977, 2nd Sess., c. 1147, ss. 6, 7; 1981, c. 377, ss. 4-6; 1983, c. 435, s. 5.1; c. 561, s. 7; 1985 (Reg. Sess., 1986), c. 960, s. 1; 1993, c. 84, s. 1; 1993 (Reg. Sess., 1994), c. 767, s. 6; 1995, c. 330, s. 1; 2008-129, s. 3; 2009-372, s. 10; 2010-96, s. 5; 2011-145, ss. 19.1(h), (k), (ee); 2013-368, s. 8; 2014-119, s. 2(e); 2015-40, s. 5; 2017-186, s. 2(kkk).)